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3 **DECISION AND ORDER**
4 **OF THE**
5 **BOARD OF PSYCHOLOGY**

6
7 **DEPARTMENT OF CONSUMER AFFAIRS**

8 The attached Stipulation and Waiver in case number X41, is hereby adopted as the
9 Decision and Order of the Board of Psychology, Department of Consumer Affairs. An effective
10 date of March 11, 2001 has been assigned to this Decision and Order.
11

12
13 Made this 9th day of February, 2001.

14
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16 MAG Greenberg
17 Martin R. Greenberg, Ph.D.
18 President, Board of Psychology
19 Department of Consumer Affairs
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21
22
23
24
25

T. Engelmann

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of the State of California
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6 Attorneys for Complainant

7
8 **BEFORE THE**
BOARD OF PSYCHOLOGY
9 **DEPARTMENT OF CONSUMER AFFAIRS**
10 **STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues Against:

12 TIMOTHY C. ENGELMANN
2256 Bermuda Drive
13 San Mateo, CA 94403

Case No. X 41

OAH No. N2000120003

STIPULATION AND WAIVER

14 Applicant/Respondent.

15
16 IT IS HEREBY STIPULATED by and between Timothy C. Engelmann, Ph.D.,
17 the applicant/respondent in this matter, and Thomas O'Connor, as Executive Officer of the
18 Board of Psychology of the State of California, Department of Consumer Affairs, by and through
19 his attorney, Jose R. Guerrero, Deputy Attorney General, that the following matters are true:

20 1. Statement of Issues, Case No. X 41 is presently pending against Timothy C.
21 Engelmann, Ph.D., (hereinafter referred to as the "respondent"), and respondent has fully read
22 and understands the basis for the Statement of Issues.

23 2. The complainant in said Statement of Issues, Thomas O'Connor, Executive
24 Officer of the Board, has brought said Statement of Issues in his official capacity only.

25 3. That respondent hereby freely and voluntarily waives his right to a hearing on
26 the charges and allegations contained in the above-mentioned Statement of Issues in order to
27 enter into this Stipulation and Waiver and that he further agrees to waive his right to
28 reconsideration, judicial review, and any and all rights which may be accorded him by the

Administrative Procedure Act and the laws of the State of California.

4. All admissions of fact and conclusions of law contained in this Stipulation are made exclusively for this proceeding and any future proceedings between the Board and the respondent and shall not be deemed to be admissions for any purpose in any other administrative, civil or criminal action, forum or proceeding.

5. That the respondent's license history and status as set forth at paragraph 4 of the Statement of Issues are true and correct and that the respondent's address of record has changed from that previously set forth in the caption of the Statement of Issues. His current address in 1554 Brandywine Road, San Mateo, CA 94402.

6. For purposes of the settlement of the Statement of Issues, No. X 41, and to avoid a lengthy administrative hearing, respondent admits that there is a factual and legal basis for the Board to issue him a probationary license upon conditions, pursuant to all of the allegations of Statement of Issues No. X 41.

7. Respondent admits that the criminal convictions, by way of two separate pleas, one of nolo contendere and a second of guilty, alleged in Statement of Issues No. X 41 are substantially related to the duties, functions and responsibilities of a psychologist and constitute cause for issuance of a probationary psychologist license.

IT IS HEREBY STIPULATED AND AGREED that the Board of Psychology, upon its approval of the Stipulation and Waiver herein set forth, may, without further notice, prepare a decision and enter the following order, whereby the Board of Psychology issues to respondent a license to practice psychology, PROVIDED HOWEVER, that respondent is placed on probation for a period of three (3) years from the effective date of the Decision of the Board of Psychology adopting this Stipulation upon the following terms and conditions:

A. PRACTICE MONITOR Within 90 days of the effective date of this Decision, respondent shall submit to the Board or its designee for prior approval, the name and qualifications of a psychologist who has agreed to serve as a practice monitor. The monitor shall 1) be a California-licensed psychologist with a clear and current license; 2) have no prior business, professional, personal or other relationship with

1 respondent; and 3) not be the same person as respondent's therapist. The monitor's
2 education and experience shall be in the same field of practice as that of the respondent.

3 Once approved, the monitor shall submit to the Board or its designee a
4 plan by which respondent's practice shall be monitored. Monitoring shall consist of a
5 least one hour per week of individual face to face meetings and shall continue during the
6 entire probationary period. The respondent shall provide the monitor with a copy of this
7 Decision and access to respondent's fiscal and/or patient records. Respondent shall obtain
8 any necessary patient releases to enable the monitor to review records and to make direct
9 contact with patients. Respondent shall execute a release authorizing the monitor to
10 divulge any information that the Board may request. It shall be respondent's
11 responsibility to assure that the monitor submits written reports to the Board or its
12 designee on a quarterly basis verifying that monitoring has taken place and providing an
13 evaluation of respondent's performance.

14 Respondent shall notify all current and potential patients of any term or
15 condition of probation which will affect their therapy or the confidentiality of their
16 records (such as this condition which requires a practice monitor). Such notifications
17 shall be signed by each patient prior to continuing or commencing treatment.

18 If the monitor quits or is otherwise no longer available, respondent shall
19 obtain approval from the Board for a new monitor within 30 days. If no new monitor is
20 approved within 30 days, respondent shall not practice until a new monitor has been
21 approved by the Board or its designee. During this period of non-practice, probation will
22 be tolled and any period of non-practice shall not apply to the reduction of this
23 probationary period. Respondent shall pay all costs associated with this monitoring
24 requirement. Failure to pay these costs shall be considered a violation of probation.

25 The Board may consider early termination of this condition after
26 respondent has completed one year of monitoring. In order for the Board to consider
27 early termination of this condition, the monitor must submit a written report that
28 specifically states in detail the reasons why the monitor recommends early termination of

1 this condition of probation. The monitor's written report to the Board shall include an
2 analysis of respondent's ability to function independently without supervision.

3 B. ALCOHOL AND DRUG ABUSE TREATMENT Effective 30 days
4 from the date of this Decision, respondent shall enter an inpatient or outpatient alcohol or
5 other drug abuse recovery program (a minimum of six (6) months duration) or an
6 equivalent program as approved by the Board or its designee. Respondent shall provide
7 the Board or its designee with proof that the approved program was successfully
8 completed. Quitting the program without permission or being expelled for cause shall
9 constitute a violation of probation by respondent.

10 Subsequent to the program, respondent shall participate in on-going
11 treatment and/or out-patient treatment such as receiving individual and/or group therapy
12 from a psychologist trained in alcohol and drug abuse treatment; and/or attend Twelve
13 Step meetings or the equivalent as approved by the Board or its designee at least three
14 times a week during the three years of probation. Respondent shall provide
15 documentation of attendance at Twelve Step meetings or the equivalent on a quarterly
16 basis to the Board or its designee. All expenses associated with the treatment shall be
17 paid by respondent. Failure to pay these costs shall be considered a violation of
18 probation.

19 C. ABSTAIN FROM DRUGS AND ALCOHOL AND SUBMIT TO
20 TESTS AND SAMPLES Respondent shall abstain completely from the personal use or
21 possession of controlled substances as defined in the California Uniform Controlled
22 Substances Act, and dangerous drugs as defined by Section 4211 of the Business and
23 Professions Code, or any drugs requiring a prescription unless respondent provides the
24 Board or its designee with documentation from the treating physician and surgeon that
25 the prescription was legitimately issued and is a necessary part of the treatment of
26 respondent. Respondent shall abstain completely from the use of alcoholic beverages.
27 Respondent shall undergo random, biological fluid testing as determined by the Board or
28 its designee. Any confirmed positive finding will be considered a violation of probation.

1 Respondent shall pay all costs associated with such testing. The length of time and
2 frequency of this testing condition will be determined by the Board or its designee.

3 **Drugs - Exception for Personal Illness:**

4 Orders forbidding respondent from personal use or possession of
5 controlled substances or dangerous drugs do not apply to medications lawfully prescribed
6 to respondent for a bona fide illness or condition by a physician and surgeon.

7 Respondent shall provide the Board or its designee with written documentation from the
8 treating physician and surgeon who prescribed medication(s).

9 **D. COURSEWORK** Respondent shall take and successfully complete
10 not less than 18 hours of course work which shall include courses in laws and ethics and
11 supervision issues for each year of probation. Coursework must be preapproved by the
12 Board or its designee. All coursework shall be taken at the graduate level at an accredited
13 educational institution or by an approved continuing education provider. Classroom
14 attendance is specifically required; correspondence or home study coursework shall not
15 count toward meeting this requirement. The coursework must be in addition to any
16 continuing education courses that may be required for license renewal.

17 Within 90 days of the effective date of this Decision, respondent shall
18 submit to the Board or its designee for its prior approval a plan for meeting the
19 educational requirements. All costs of the coursework shall be paid by the respondent.

20 **E. PROBATION COSTS** Respondent shall pay the costs associated with
21 probation monitoring each and every year of probation. Such costs shall be payable to
22 the Board of Psychology at the end of each fiscal year. Failure to pay such costs shall be
23 considered a violation of probation.

24 **F. OBEY ALL LAWS** Respondent shall obey all federal, state, and local
25 laws and all regulations governing the practice of psychology in California including the
26 ethical guidelines of the American Psychological Association. A full and detailed
27 account of any and all violations of law shall be reported by the respondent to the Board
28 or its designee in writing within seventy-two (72) hours of occurrence.

1 G. QUARTERLY REPORTS Respondent shall submit quarterly
2 declarations under penalty of perjury on forms provided by the Board or its designee,
3 stating whether there has been compliance with all the conditions of probation.

4 H. PROBATION COMPLIANCE Respondent shall comply with the
5 Board's probation program and shall, upon reasonable notice, report to the assigned
6 District Office of the Medical Board of California or other designated probation monitor.
7 Respondent shall contact the assigned probation officer regarding any questions specific
8 to the probation order. Respondent shall not have any unsolicited or unapproved contact
9 with 1) complainants associated with the case; 2) Board members or members of its
10 staff; or 3) persons serving the Board as expert evaluators.

11 I. INTERVIEW WITH BOARD OR ITS DESIGNEE Respondent shall
12 appear in person for interviews with the Board or its designee upon request at various
13 intervals and with reasonable notice.

14 J. CHANGES OF EMPLOYMENT Respondent shall notify the Board
15 in writing, through the assigned probation officer, of any and all changes of employment,
16 location, and address within 30 days of such change.

17 K. TOLLING FOR OUT-OF-STATE PRACTICE, RESIDENCE OR IN-
18 STATE NON-PRACTICE In the event respondent should leave California to reside or
19 to practice outside the State or for any reason should respondent stop practicing
20 psychology in California, respondent shall notify the Board or its designee in writing
21 within ten days of the dates of departure and return or the dates of non-practice within
22 California. Non-practice is defined as any period of time exceeding thirty days in which
23 respondent is not engaging in any activities defined in Sections 2902 and 2903 of the
24 Business and Professions Code. Periods of temporary or permanent residency or practice
25 outside California or of non-practice within California will not apply to the reduction of
26 this probationary period., although the Board may allow respondent to complete certain
27 terms of probation that are not associated with active practice.
28

1 L. EMPLOYMENT AND SUPERVISION OF TRAINEES If

2 respondent is licensed as a psychologist, he/she shall not employ or supervise or apply to
3 employ or supervise psychological assistants, interns or trainees during the course of this
4 probation. Any such supervisorial relationship in existence on the effective date of this
5 probation shall be terminated by respondent and/or the Board.

6 M. FUTURE REGISTRATION OR LICENSURE If respondent is

7 currently registered as a psychological assistant and subsequently obtains other
8 psychological assistant registrations or becomes licensed as a psychologist during the
9 course of this probationary order, respondent agrees that this Decision shall remain in full
10 force and effect until the probationary period is successfully terminated. Future
11 registration or licensure shall not be approved, however, until respondent is currently in
12 compliance with all of the terms and conditions of probation.

13 N. VIOLATION OF PROBATION If respondent violates probation in

14 any respect, the Board may, after giving respondent notice and the opportunity to be
15 heard, may file a Petition to Revoke Probation. If an Accusation or Petition to Revoke
16 Probation is filed against respondent during probation, the Board shall have continuing
17 jurisdiction until the matter is final, and the period of probation shall be extended until
18 the matter is final. No Petition for Modification or Termination of Probation shall be
19 considered while there is an Accusation or Petition to Revoke Probation pending against
20 respondent.

21 O. COMPLETION OF PROBATION Upon successful completion of
22 probation, respondent's license shall be fully restored.

23 P. ETHICS COURSE Within 90 days of the effective date of this

24 Decision, respondent shall submit to the Board or its designee for prior approval a course in laws
25 and ethics as they relate to the practice of psychology. Said course must be successfully
26 completed at an accredited educational institution or through a provider approved by the Board's
27 accreditation agency for continuing education credit. Said course must be taken and completed
28 within one year from the effective date of this Decision. The cost associated with the law and

ethics course shall be paid by the respondent.

8. IT IS FURTHER STIPULATED AND AGREED that the terms set forth herein shall be null and void, and in no way binding upon the parties hereto, unless and until accepted by the Board of Psychology of the State of California.

DATED: December 21, 2000

BILL LOCKYER, Attorney General
of the State of California



JOSE R. GUERRERO
Deputy Attorney General

Attorney for Complainant

I hereby certify that I have read this Stipulation and Waiver in its entirety, that I fully understand all of same, and in witness thereof, I affix my signature this 21st day of December, 2000, at Oakland, California.



TIMOTHY C. ENGELMANN, Ph.D.
Respondent

1 BILL LOCKYER, Attorney General
of the State of California
2 VIVIEN HARA HERSH
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9 **BEFORE THE BOARD OF PSYCHOLOGY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 **In the Matter of the Statement of Issues**
13 **Against:**

14 **TIMOTHY C. ENGELMANN**
15 **2256 Bermuda Drive**
16 **San Mateo, CA 94403**

Applicant/Respondent.

Case No. X 41

STATEMENT OF ISSUES

17 Complainant alleges:

18 **PARTIES**

19 1. Complainant Thomas S. O'Connor is the Executive Officer of the Board
20 of Psychology, Department of Consumer Affairs, State of California (hereinafter "the Board")
21 and brings this Statement of Issues solely in his official capacity.

22 2. On or about March 24, 2000, respondent Timothy C. Engelmann
23 (hereinafter "respondent") submitted an application for licensure to the Board.

24 3. On or about May 11, 2000, the Board notified respondent that his
25 application for licensure had been denied. On or about May 25, 2000, respondent submitted a
26 letter requesting a hearing concerning the denial of his application.

4. Respondent is licensed as a psychologist in the State of Pennsylvania under Certificate No. PS-008985-L. He was so licensed by the Pennsylvania Bureau of Professional and Occupational Affairs on or about December 8, 1995, and his current renewal will expire on November 30, 2001, unless further renewed. Respondent's criminal convictions occurred in Massachusetts and Pennsylvania while he was residing and working in Pennsylvania, and his hospitalizations for drug abuse occurred in Pennsylvania.

JURISDICTION

5. This Statement of Issues is brought before the Board of Psychology, Department of Consumer Affairs, State of California under the authority of the following sections of the California Business and Professions Code (hereinafter "the Code"):

A. Section 480(a)(3) of the Code provides that a board may deny a license regulated by this code on the grounds that the applicant has done any act which if done by a licentiate of the business or profession in question would be grounds for suspension or revocation of a license.

B. Section 2960 of the Code provides, in pertinent part, that the Board may refuse to issue any license or may issue a license on terms and conditions or may suspend or revoke the license of any licensee if the applicant or licensee has been guilty of unprofessional conduct. Unprofessional conduct includes, but is not limited to:

"(a) Conviction of a crime substantially related to the qualifications, functions or duties of a psychologist or psychological assistant.

"(b) Use of any controlled substance as defined in Division 10 (commencing with section 11000) of the Health and Safety Code, or dangerous drug, or any alcoholic beverage to an extent or in a manner dangerous to himself or herself, any other person, or to the public, or to an extent that this use impairs his or her ability to perform the work of a psychologist with safety to the public.

"(k) Violating any of the provisions of this chapter or regulations duly adopted thereunder.

"(n) The commission of any dishonest, corrupt, or fraudulent act "

C. Section 2960.6 of the Code provides that "An administrative disciplinary decision that imposes terms of probation may include, among other things, a requirement that the licensee who is being placed on probation pay the monetary costs associated with monitoring the probation.

DRUGS INVOLVED

6. Ritalin is a trade name for methylphenidate hydrochloride and is a Schedule II controlled substance under Health and Safety Code section 11055(d)(6) and Title 21 Code of Federal Regulations section 1308.12(d) and a dangerous drug under Business and Professions Code section 4022. Methylphenidate is an orally administered central nervous system (CNS) stimulant that is chemically similar to the amphetamines. Methylphenidate's peripheral pharmacologic actions are milder than those of amphetamines; the agent has more noticeable effects on mental activities than amphetamines. It is clinically used in the treatment of narcolepsy and as adjunctive treatment in children with attention-deficit hyperactivity disorder (ADHD).

7. Dexedrine is a trade name for dextroamphetamine sulfate, an amphetamine, and is a Schedule II controlled substance under Health and Safety Code section 11055(d)(1) and Title 21 Code of Federal Regulations section 1308.12(d) and a dangerous drug under Business and Professions Code section 4022. Dextroamphetamine is an orally administered CNS stimulant. It is two times more potent on a weight basis than racemic amphetamine and has greater CNS stimulating activity than epinephrine or other catecholamines. Clinical uses include the treatment of narcolepsy and as an adjunct in the treatment of attention deficit disorder (ADD).

1 8. Adderall is a trade name for the combination of equal parts of
2 amphetamine aspartate, amphetamine sulfate, dextroamphetamine saccharate, and
3 dextroamphetamine sulfate, which are all salts of amphetamine. Adderall is a Schedule II
4 controlled substance under Health and Safety Code section 11055(d)(1) and Title 21 Code of
5 Federal Regulations section 1308.12(d) and a dangerous drug under Business and Professions
6 Code section 4022. This combination of amphetamine and dextroamphetamine is used as an oral
7 preparation in the treatment of ADHD and narcolepsy.

8 **FIRST CAUSE FOR DENIAL**

9 **(Conviction of Crimes)**

10 9. Respondent's application for licensure is subject to denial pursuant to
11 section 2960(b) of the Code in that he has been convicted of crimes substantially related to the
12 qualifications, functions or duties of a psychologist. The facts are as follows.

13 10. On or about September 2, 1989, respondent was arrested in Waltham,
14 Massachusetts, for operating a motor vehicle under the influence of liquor, operating a motor
15 vehicle negligently so as to endanger the public, and failing to stop at a toll booth. Respondent
16 was arraigned in Waltham District Court on September 15, 1989 in Docket No. 8951CR2808,
17 and on September 18, 1989, and respondent pleaded nolo contendere to all counts. Respondent
18 was sentenced to one year probation, a 75 day loss of his driver's license, an alcohol first
19 offender program, and certain fines. The case was dismissed on September 20, 1990 after
20 respondent had fulfilled all the terms of his sentence.

21 11. On or about September 18, 1996, respondent was arrested in Lancaster,
22 Pennsylvania for theft of property from Lancaster General Hospital, to wit: "10 Stadol 2 mg., 2
23 Methergine 1 ml, 2 Promethazine, 1 ml, .9% Sodium chloride, 10 ml, 5 Oxytolin [sic] 1 ml each; 3
24 22 gage [sic] needs, 2 3 cl [sic] syringes, Maxi pads. Total value \$67.72." Respondent was
25 charged, in Case No. 2593-1997 in the Court of Common Pleas, Lancaster County, Pennsylvania
26 with theft by unlawful taking. On or about May 5, 1998, respondent pleaded guilty to the charge

1 and was sentenced to regular probation for one year, with fines and penalties totaling \$279.00.
2 Said probation was successfully completed, with all fines and penalties paid.

3 **SECOND CAUSE FOR DENIAL**

4 **(Grounds for Discipline if Licensed)**

5 12. The allegations of paragraphs 9 through 11, above are incorporated herein
6 by reference as if fully set forth.

7 13. Respondent's application is subject to denial pursuant to section 480(a)(3)
8 of the Code in that respondent's acts, if done by a licentiate of the Board, would be grounds for
9 suspension or revocation of a license under sections 2960(a) and 2960(n) of the Code.

10 **THIRD CAUSE FOR DENIAL**

11 **(Drug Abuse)**

12 14. Respondent's application for licensure is subject to denial under section
13 2960(b) in that he used psychostimulant medication to an extent or in a manner dangerous to
14 himself, other persons, and to the public and to an extent that the use impaired his ability to
15 perform the work of a psychologist with safety to the public. The facts are as follows.

16 15. In or about May of 1996, respondent was diagnosed with adult
17 Attention Deficit Hyperactivity Disorder (ADHD). He was treated first with Ritalin, and also
18 with Adderall and Dexedrine. Respondent began to take more than the prescribed dose of Ritalin,
19 and soon began to abuse the drug. A change of physicians brought prescriptions for Adderall and
20 Dexedrine, which respondent also abused. Respondent attributes his arrest for theft, described in
21 paragraph 11, above, and a subsequent citation in October 1996 for trespass at a plant nursery
22 after closing time to the confused state caused by his abuse of these psychostimulant medications.
23 During this period and until sometime in 1997, respondent was working as the Director of
24 Behavioral Medicine for Philhaven Behavioral Healthcare Services in Gretna, Pennsylvania.

25 16. On or about October 21, 1996, respondent was transported to Community
26 Hospital of Lancaster by ambulance after a "911" call from his doctor. On admission, respondent

complained of insomnia, decreased appetite, sleep deprivation, irrational thinking, paranoia, and violent behavior toward his wife. He was diagnosed with drug induced psychosis, with toxic effects from Ritalin and discharged to the care of his physician on October 25, 1996 with a guarded prognosis.

17. Respondent separated from his wife, who moved with their children to California, and he continued to abuse psychostimulant medication. On or about March 13, 1998, respondent admitted himself to Polyclinic Hospital, Psychiatric Unit, in Harrisburg, Pennsylvania after having driven to the Harrisburg Emergency Room wanting internal and external examinations for "worms," stating that his body and his automobile had been infested with parasites. He was diagnosed and treated for tactile hallucinations secondary to a brief psychotic disorder versus amphetamine-induced psychosis and discharged on March 20, 1998. He consistently denied amphetamine abuse during his hospitalization and refused to give urine samples for drug analysis. Respondent was taken off Adderall and Dexedrine at this time by his physician. Respondent participated in an outpatient treatment program after discharge and began attending AA meetings.

18. Respondent reports that he has not used drugs or alcohol since March of 1998. In or about July of 1998, respondent moved to California, where he reconciled with his wife and began work as a counselor for the Children's Health Council in Palo Alto, California, a non-profit, publicly funded therapeutic day school.

FOURTH CAUSE FOR DENIAL

19. The allegations of paragraphs 14 through 17, above, are incorporated herein by reference as if fully set forth.

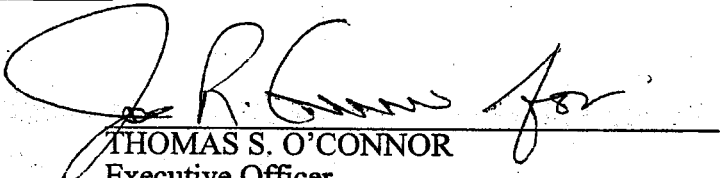
20. Respondent's application is subject to denial pursuant to section 480(a)(3) of the Code in that respondent's conduct, if done by a licentiate of the Board, would be grounds for suspension or revocation of a license, in that such conduct would violate sections 2960 and 2960(b) of the Code.

PRAYER

WHEREFORE, complainant requests that a hearing be held on the matters herein alleged, and that if these allegations, or any of them, are found to be true, that the Board make its order:

1. Denying the application of TIMOTHY C. ENGELMANN for a license to practice psychology in the State of California; and
2. If placed on probation that the applicant Timoth C. Engelmann be required to pay the costs of probation monitoring; and
3. Taking such other action as the Board deems necessary and proper.

DATED: 11-20-00


THOMAS S. O'CONNOR
Executive Officer
Board of Psychology
Department of Consumer Affairs
State of California

Engelmann.SOI
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